

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:15-cv-47**

MIKE SMITH BUILDERS, LLC,)
)
 Plaintiff,)
)
 vs.)
)
 DANIEL D. PECK and wife, LINDA A.)
 PECK, individually and DANIEL D.)
 PECK and MEREDITH A. PECK as)
 Co-trustees of the DANIEL D. PECK)
 GENERATION skipping trust under the)
 WILL OF BERNARD S. PECK,)
)
 Defendants.)
 _____)

ORDER

THIS MATTER is before the Court *sua sponte* to ascertain subject matter jurisdiction. The Defendants removed this action from state court based upon diversity of jurisdiction (#1). In the Complaint, Plaintiff alleges that Mike Smith Builders, LLC is a limited liability company organized and existing under the laws of the state of North Carolina.

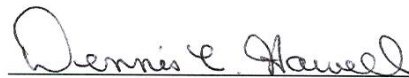
Courts have an affirmative duty to question subject matter jurisdiction even when the parties have not done so. Interstate Petroleum Corp. v. Morgan, 249 F.3d 215 (4th Cir. 2001); Plyer v. Moore, 129 F.3d 728, 732 n.6 (4th Cir. 1997),

certiorari denied 524 U.S. 945, 118 S.Ct. 2359, 141 L.Ed.2d 727 (1998); 28 U.S.C. §1447(c) (“If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded.”). A limited liability company is a citizen of all states in which its constituent members are citizens. Carden v. Arkoma Associates, 494 U.S. 185, 110 S.Ct. 1015, 108 L.Ed.2d 157 (1990). The Defendants did not disclose, in their notice of removal, whether the Plaintiff has constituent members or partners and the citizenships of those partners and therefore the Plaintiff will be required to do so.

ORDER

IT IS, THEREFORE, ORDERED that on or before **April 14, 2015**, the Plaintiff shall file a response disclosing the names and citizenships, if any, of all the constituent members or partners of Mike Smith Builders, LLC and for any such constituent members or partners that are limited liability companies or partnerships, to identify the citizenships of the respective constituent members or partners until all such constituents are fully identified.

Signed: March 24, 2015



Dennis L. Howell
United States Magistrate Judge

